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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/601,571 09/01/00 BERNETH

H LEA 32 509

EXAMINER

MM91/1019

JEFFREY M GREENMAN
BAYER CORPORATION
400 MORGAN LANE
WEST HAVEN CT 06516

HTNDL

ART UNIT

PAPER NUMBER

2873

DATE MAILED:

10/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/601,571

Applicant(s)

BERNETH ET AL.

Examiner

Omar Z. Hindi

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-13 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 September 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 and 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Detailed Action*.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the (a) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

(fig.1) and (fig.2), are clearly missing element (a) in both provided figures. The examiner suggests inserting element (a) in both, (fig.1) and (fig.2).

Specification

2. The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

The following order or arrangement is preferred in framing the specification and, except for the reference to "Microfiche Appendix" and the drawings, each of the lettered items should appear in upper case, without underlining or bold type, as section headings. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) Title of the Invention.
- (b) Cross-References to Related Applications.
- (c) Statement Regarding Federally Sponsored Research or Development.
- (d) Reference to a "Microfiche Appendix" (see 37 CFR 1.96).
- (e) Background of the Invention.
 1. Field of the Invention.
 2. Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) Brief Summary of the Invention.
- (g) Brief Description of the Several Views of the Drawing(s).
- (h) Detailed Description of the Invention.
- (i) Claim or Claims (commencing on a separate sheet).
- (j) Abstract of the Disclosure (commencing on a separate sheet).
- (k) Drawings.

- (I) Sequence listing (see 37 CFR 1.821-1.825).

Claim Objections

3. Claims 3 and 4 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim 3 and 4. See MPEP § 608.01(n). Accordingly, the claims 3 and 4 have not been further treated on the merits.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
5. Claims 9 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, line 5, the phrase "spacing a" is not clear or understood. What does this limitation corresponds to?

In claim 13, line 3, the limitation drawn to density is not provide the density in measuring units and consequently renders this limitation indefinite.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 5-8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Bennett et al (5446577).

Bennett teaches as in claim 1, electrochromic medium (30) between two electrode sheets (20) as it shown in (fig.1); element (30) (col.5 lines 20-23), wherein at least one of the electrodes sheet is transparent, (10) (col.5 lines 15-16) and it characterized as electrically conductive material, the transparent electro sheets are pattern in holes or slits, (strips or grids) (fig.1) element (22) (col.5 lines 17-18), between the sheets, and a metallic conductive material been deposited, (fig.1) element (30) (col.5 lines 5-6) meeting the limitations of claim 1.

Bennett teaches as in claim 2, electrochromic display element characterized of electrochromic layer of solid conductive layer (col.2 lines 29-32).

Bennett teaches as in claim 5, which both electrode sheets made of material having metallic conductivity (fig.1) (col.5 lines 16-17).

Bennett teaches as in claim 6, the pattern of strips of two electrodes form of electrodes (fig.1) (col.5 lines 16-19). Angle with one another; see (fig2) elements (150) and (120).

Bennett teaches as in claim 7, a pattern of strips having a material of electric conductivity of electrodes (fig.1) (col.5 lines 16-19).

Bennett teaches as in claim 8, the pattern strips on the electrodes in a short distance, as it shows in (fig2) elements (120) and (150)

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Bennett teaches, as in claim 12, a pattern of strip of one of the electrodes running parallel to each other, and has a web (mesh) of 3.18mm apart from each other.

Bennett teaches, as in claim 13. The claim do not recite what "0.3" refer to. Therefore the claim as far as proper and understood is met by the reference in (fig.2) showing grid density of "0.3".

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett as applied to claim 1, above, and further in view of Byker (5751467).

Bennett discloses in the invention as described above however Bennett does not teach the metal grid on the electrode has been deposited on the transparent which is electrically conductive material, as in claim 10. Byker however teaches in details the electrochromic display is characterized of metal grid on the electrodes where its deposited on a transparent which an electrically conducting material can be attached to form electrode layer (col .8, lines 9-25). Thus It would have been obvious to one skilled in the art at the time of the invention was made to use the teaching of Byker and modify the system of Bennett for the purpose of applying a sufficient voltage between the plates, (electrodes) in order to form a distinct coloration in the region of the grid, in other

meaning, by applying the electrical potential to the electrodes, the display device will be capable of changing reflectance, and color (col. 5, lines 20-25).

With respect to the limitation of claim 11, the limitation of using electro conductive transparent is merely an alternative material equivalence, which is known in the art as cited in (col. 8, lines 25-32) of Byker reference.

Allowable Subject Matter

10. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Z. Hindi whose telephone number is (703) 305-6845. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (703) 308-4883. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

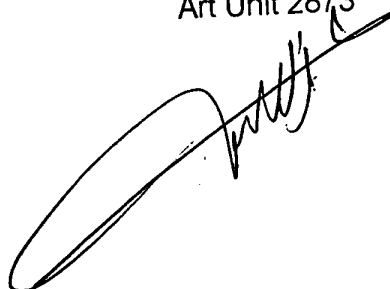

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Omar Z. Hindi
Examiner
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October 18, 2001

A large, stylized handwritten signature in black ink, likely belonging to Omar Z. Hindi, the examiner mentioned in the adjacent text block.A handwritten signature in black ink that reads "Ricky Mack".

RICKY MACK
PRIMARY EXAMINER